

It is a welcome decision by the Gillard government to propose amendments to the Family Law Bill. I support the changes which :-

1. Remove the unfriendly parent provision
2. Add to the definitions of violence
3. Recognize the Convention on The Rights of The Child in the legislation
4. Ensure that the existence of family violence comes to the attention of the court and court personnel

However I do have concerns in regard to what probably are the most important changes:-

1. To give priority to protection of children when there is violence present
2. To emphasise that 'the best interest of the child' is the paramount consideration

These two objectives are already the expectations of the 2005 amendments in Sections 60 B and 60 CA.

Section 60 B describes how parents' involvement in children's lives is qualified to the extent "consistent with the best interest of the child and protecting children from physical or psychological harm, from being subjected to, or exposed to abuse, neglect or family violence....."

Section 60 CA says "in deciding whether to make a particular order in relation to a child, a court must regard the best interests of the child as the paramount consideration".

This then suggests that post 2006 unwise or dangerous court decisions flowed not from a lack of direction in the existing legislation, but rather from the presence of other more potent provisions which have the ability to prevail. If these provisions remain in the legislation, any proposed amendments will continue to be compromised by the dominant authority of primary considerations, presumptions and clear directives.

I therefore ask that to ensure the intended outcome of the amendments :-

1. The issue of the child having a meaningful relationship with both parents no longer be a **primary** consideration
2. Equal share responsibility no longer be considered a **presumption**
3. The requirement that the court **must** consider 50/50 share time if there is shared responsibility be removed

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